THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.4520 OF 2007

ORAL ORDER:

The petitioner herein was appointed as a fair price shop dealer of Ibrahimpatnam village, Dhanwada mandal, Mahabubnagar district. Challenging the said appointment, the 3rd respondent herein preferred an Appeal before the Joint Collector, Mahabubnagar-1st respondent herein, contending *inter alia* that the writ petitioner is not a resident of Ibrahimpatnam, but he is actually residing at Velgonda village of Bijnapally mandal. The 1st respondent allowed the said appeal and set aside the appointment of the petitioner by order dated 27.1.2007, which is under challenge in this writ petition.

It is primarily contended by the learned counsel for the petitioner that the impugned order dated 27.1.2007, which was passed without notice to the petitioner, is violative of principles of natural justice and, therefore, it is liable to be set aside on that ground alone.

A counter affidavit has been filed on behalf of respondents 1 and 2 stating that as a matter of fact, a notice was issued to the petitioner intimating the date and time of hearing of the appeal as 6.1.2007. The said notice, which was sent to the petitioner through the Mandal Revenue Officer, Dhanwada for service, was returned with a certificate of the Panchayat Secretary that the petitioner was not in Ibrahimpatnam village and, therefore, a copy of the notice was affixed to the Notice Board at the Gram Panchayat Office in the presence of witnesses. However, the petitioner failed to respond and, consequently, the appeal was allowed on the basis of the material available on record.

The said version of the respondents 1 and 2 has been disputed by the petitioner. The learned counsel for the petitioner across the bar submitted that it is absolutely incorrect to state that a copy of the notice was affixed to the Notice Board at the Gram Panchayat Office.

Be that as it may, since, admittedly, the appeal was allowed without hearing the writ petitioner and particularly since the petitioner is disputing the allegation that he is not a resident of Ibrahimpatnam village, I am of the opinion that it would be appropriate to give an opportunity to the petitioner to appear before the 1st respondent and to produce the relevant material, if any, to support his version.

In the circumstances, without expressing any opinion on the rival claims, the impugned order is set aside and the writ petition is disposed of granting liberty to the petitioner to submit his counter, if any, in the appeal filed by the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the 1st respondent shall issue notice of hearing to both the petitioner and the 3rd respondent and pass final orders in accordance with law as expeditiously as possible, preferably within a period of four weeks.

It is brought to my notice that from the date of the impugned order the petitioner is not allowed to distribute the essential commodities and certain alternative arrangements have been made by the 2nd respondent. Accordingly, it is made clear that the 2nd respondent shall continue the same arrangement for distribution of the essential commodities till fresh order is passed by the 1st respondent, so as to avoid inconvenience to the consumers. No costs.

(G. ROHINI).

16th April, 2007.
Note:
Issue CC in three days.
(BO)
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.4520 OF 2007

16th April, 2007.

Between:

N. Narasimha Yada. .. Petitioner.

And

The Joint Collector, Mahabubnagar and others. .. Respondents.